

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
ASHEVILLE DIVISION
CRIMINAL CASE NO. 1:16-cr-00097-MR-WCM-1**

UNITED STATES OF AMERICA,

Plaintiff,

vs.

JONATHAN CISNEROS-ARTEAGA,

Defendant.

ORDER

THIS MATTER is before the Court upon the Defendant's letter, which the Court construes as a motion for relief under The First Step Act of 2018. [Doc. 60].

In May 2017, the Defendant was convicted of possession with intent to distribute methamphetamine, in violation of 21 U.S.C. §§ 841(a)(1). [Doc. 49]. He was sentenced to a term of 120 months' imprisonment and five years of supervised release. [Id.]. By the present letter, the Defendant asking if, as a non-violent drug offender, he is entitled to relief under The First Step Act of 2018, Pub. L. No. 115-391.

The First Step Act was signed into law on December 21, 2018. Section 404 of the Act gives retroactive effect to the changes made by Sections 2

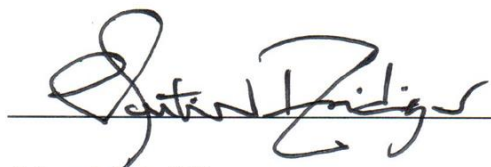
and 3 of the Fair Sentencing Act of 2010. Section 404(a) defines a “covered offense” as “a violation of a Federal criminal statute, the statutory penalties for which were modified by Section 2 or 3 of the Fair Sentencing Act of 2010 . . . , that was committed before August 3, 2010.” Sections 2 and 3 of the Fair Sentencing Act of 2010 increased the quantity of cocaine base required to trigger the enhanced penalties of 21 U.S.C. § 841 and eliminated the mandatory minimum for simple possession of cocaine base under 21 U.S.C. § 844(a).

Here, the Defendant has pled guilty to and was convicted of a charge involving methamphetamine, not cocaine base. Because he has not been convicted of a “covered offense” under Section 404(a)’s definition, the Defendant is not eligible for relief under Section 404 of the First Step Act.

Accordingly, **IT IS, THEREFORE, ORDERED** that the Defendant’s letter, which the Court construes as a motion for relief under The First Step Act of 2018 [Doc. 60] is **DENIED**.

IT IS SO ORDERED.

Signed: November 3, 2022



Martin Reidinger
Chief United States District Judge

